

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE ORGANOGENESIS SECURITIES
LITIGATION

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: Case No.: 1:04cv10027-JLT
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**PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO SERVE
SUBPOENA DUCES TECUM AND AD TESTIFICANDUM ON JOHN H. COLLEY**

Plaintiffs, through their attorneys, submit this opposition to Defendants' Motion To Serve Third Party Subpoena *Duces Tecum* and *Ad Testificandum* on John H. Colley.

Mr. Colley was, during the class period, one of Plaintiff Bruno Hofmann's stock brokers. It is apparent on its face that Defendants' motion for leave to seek documents and deposition testimony from Mr. Colley was a pretext for re-opening discovery on the issue of class certification. Given that the Court has today denied Plaintiffs' Motion for Class Certification (Dkt. Nos. 209-210), the proposed discovery is unnecessary.

As another ground for their motion, Defendants assert that "[d]ocuments produced by Mr. Hofmann indicate that Mr. Colley had direct and personal communications with Organogenesis, Inc. *senior management* during the putative Class Period." [Emphasis added.] The fact is that Defendants were a part of Organogenesis's senior management during the Class Period. Therefore, Defendants should already have any information that exists concerning the communications about which they now belatedly seek discovery from Mr. Colley. Defendants have thus failed to demonstrate that any legitimate information they might seek from Mr. Colley in this regard differs in any way from the information they already have.¹ Further, Defendants

¹ Nor is the fact that Plaintiffs identified Mr. Colley (along with numerous other individuals) on their initial disclosure statement as a person known or believed to have discoverable information

already served on CAM a subpoena seeking documents concerning such communications and received no documents.

CONCLUSION

Plaintiffs respectfully request that the Court deny Defendants' motion for leave to serve a document and deposition subpoena on Mr. Colley.

Dated: March 15, 2007

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CERTIFICATE OF SERVICE

I, Nancy Freeman Gans, hereby certify that a true copy of the above document was served upon the attorney of record for each party via ECF.

/s/ Nancy Freeman Gans
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sufficient ground for the requested discovery, especially where such discovery would be cumulative and harassing given the extensive class discovery that has already been conducted, briefed and argued.